

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10527 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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DHANUBEN DANABHAI BHASKAR MOTHER OF DETENUE RAMJI @ RAMO

Versus

DISTRICT MAGISTRATE

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Appearance:

MR NM KAPADIA for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 21/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 26th October, 1998 made against her son

one Harijan Ramji @ Ramo Damario Damjibhai, by the District Magistrate, Bhavnagar under the powers conferred upon him under sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The order of detention is accompanied by the grounds of detention. It is alleged that five offences punishable under Chapter XVI of the IPC are pending trial against the detenu. In all the aforesaid cases, the petitioner has been released on bail. The petitioner is, therefore, held to be a dangerous person within the meaning of Section 2 (c) of the Act and his activities are considered to be prejudicial to the maintenance of public order.

4. The only ground of challenge urged before me is that all the documents relied upon and referred to by the detaining authority, while recording his subjective satisfaction, have not been supplied to the petitioner. It is submitted that the order of bail made in case of the offence registered as C.R No.576 of 1998 has not been supplied to the petitioner. The learned AGP has verified the supporting material supplied to the detenu and produced by the learned advocate. She concedes that the order of bail made in favour of the detenu has not been incorporated in the said supporting material. It is indisputable that for arriving at the subjective satisfaction, the said order has been referred to and relied upon by the detaining authority. The petitioner, therefore, must be held to have been deprived of his right to make an effective representation against the order of detention. The continued detention of the detenu is, therefore, null and void.

5. For the reasons recorded hereinabove, the petition is allowed. The impugned order dated 26th October, 1998; Annexure-A to the petition, is quashed and set-aside. The detenu-Harijan Ramji @ Ramo Damario Damjibhai, unless is required to be detained in some other case, be released forthwith.

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Prakash\*